

REMARKS

The specification has been amended. Claims 1, 6, 9 - 10, 15, 18 - 19, 24, and 27 have been amended. No new matter has been introduced with these amendments, which are supported in the specification as originally filed. Claims 1 - 27 remain in the application.

I. Rejection Under 35 U.S.C. §102(e)

Paragraph 2 of the Office Action dated June 1, 2005 (hereinafter, "the Office Action") states that Claims 1 - 4, 7, 10 - 13, and 16 are rejected under 35 U.S.C. §102(e) as being anticipated by U. S. Patent 6,510,236 to Crane et al. This rejection is respectfully traversed.

With reference to Applicant's previously-submitted response in the subject case, page 4, final paragraph of the Office Action states that "The distinction between party, users, clients and device users is not understood. ... Party may be broadly construed ... therefore, clients, users and devices user [sic] would all classify as parties.". Accordingly, Applicant has revised the terminology used in his independent claims to use the term "possessed by a user" (instead of "possessed by a first party"; see Claim 1, line 5) and "biometric data of another being encountered by said possessor" (instead of "biometric data of a second party"; see Claim 1, lines 5 - 6). This terminology is supported in the specification as originally filed. See, e.g., p. 12, lines 11 - 13 ("recording ... the biometric data of another being encountered by the possessor of the pervasive device"). Applicant respectfully submits that this clarified terminology will resolve any confusion which may have existed with the term "party".

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Applicant's claims are directed not toward authenticating a device possessor, but instead, toward capturing biometric data of some being encountered by the device possessor (i.e., some being *encountered by* the user who possesses the pervasive device) and then using that captured biometric data for identifying the "encountered being". If a pervasive device is possessed by a user "A", for example, Crane's teachings are directed toward authentication of user A; Applicant's invention, by contrast, is directed toward authenticating another being such as a user "B", who is encountered by user A (while user A is the possessor of the pervasive device).

See, for example, col. 1, lines 10 - 13 of Crane, referring to "authenticating clients having a plurality of permitted authentication device types", and col. 1, line 53 (discussing prior art), which refers to "validating the user's identity" (emphasis added). See also col. 2, lines 30 - 32, "... a request for authentication ... includes a user id and device id identifying a respective client and an authentication device coupled thereto." Col. 4, lines 28 - 29 refer to the user "controll[ing]" the computer, and line 44 of col. 4 refers to "validating the user".

Applicant therefore respectfully submits that his independent Claims 1, 10, and 19 are clearly distinguishable from Crane's teachings, and that dependent Claims 2 - 4, 7, 11 - 13, and 16 are therefore distinguishable as well. The Examiner is therefore respectfully requested to withdraw the §102 rejection.

II. Rejection Under 35 U.S.C. §103(a)

Paragraph 4 of the Office Action states that Claims 5 - 6, 8 - 9, 14 - 15, and 17 - 27 are

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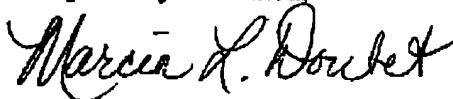
rejected under 35 U.S.C. §103(a) as being unpatentable over Crane in view of U. S. Patent 6,016,476 to Maes et al. This rejection is respectfully traversed.

Applicant finds no teaching, nor any suggestion, in Maes of capturing biometric information of a being encountered by a device possessor, and Maes cannot therefore be combined with Crane to render Applicant's claims unpatentable (assuming, *arguendo*, that one of skill in the art would be motivated to attempt the combination, and that such combination could be made). Accordingly, Applicant respectfully submits that his dependent Claims 5 - 6, 8 - 9, 14 - 15, 17 - 18, and 20 - 27 are therefore patentable over the references. Accordingly, the Examiner is respectfully requested to withdraw the §103 rejection

III. Conclusion

Applicant respectfully requests reconsideration of the pending rejected claims, withdrawal of all presently outstanding rejections, and allowance of all claims at an early date.

Respectfully submitted,



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